

your lease. This decision will be in full force and effect under its own terms, and you are not authorized to appeal the BLM decision to the Office of Hearings and Appeals.

(e)(1) If you file a timely objection in writing, BLM may issue a written decision making the readjusted terms and conditions effective no sooner than 90 days after we receive your objections, unless we reach an agreement with you as to the readjusted terms and conditions of your lease that makes them effective sooner.

(2) If BLM does not reach an agreement with you by 60 days after we receive your objections, then either the lessee or BLM may terminate your lease, upon giving the other party 30 days' notice in writing. A termination under this paragraph does not affect your obligations that accrued under the lease when it was in effect, including those specified in § 3200.4.

**§ 3210.15 What if I appeal BLM's decision to readjust my lease terms?**

If you appeal BLM's decision under § 3210.14(e)(1) to readjust the rentals, royalties, or other terms and conditions of your lease, the decision is effective during the appeal. If you win your appeal and we must change our decision, you will receive a refund or credit for any overpaid rents or royalties.

**§ 3210.16 How must I prevent drainage of geothermal resources from my lease?**

You must prevent the drainage of geothermal resources from your lease by diligently drilling and producing wells that protect the Federal geothermal resource from loss caused by production from other properties.

**§ 3210.17 What will BLM do if I do not protect my lease from drainage?**

BLM will determine the amount of geothermal resources drained from your lease. MMS will bill you for a compensatory royalty based on our findings. This royalty will equal the amount you would have paid for producing those resources. All interest owners in a lease are jointly and severally liable for drainage protection and any compensatory royalties.

**Subpart 3211—Filing and Processing Fees, Rent, Direct Use Fees, and Royalties**

**§ 3211.10 What are the processing and filing fees for leases?**

(a) Processing or filing fees are required for the following actions:

- (1) Nomination of lands for competitive leasing;
- (2) Competitive lease application;
- (3) Noncompetitive lease application (including application for direct use leases);
- (4) Assignment and transfer of record title or operating right;
- (5) Name change, corporate merger, or transfer to heir/devisee;
- (6) Lease consolidation;
- (7) Lease reinstatement;
- (8) Site license application; and
- (9) Assignment or transfer of site license.

(b) The amounts of these fees can be found in § 3000.12 of this chapter.

[72 FR 24400, May 2, 2007, as amended at 72 FR 50887, Sept. 5, 2007]

**§ 3211.11 What are the annual lease rental rates?**

(a) BLM calculates annual rent based on the amount of acreage covered by your lease. To determine lease acreage for this section, round up any partial acreage up to the next whole acre. For example, the annual rent on a 2,456.39 acre lease is calculated based on 2,457 acres.

(b) For leases issued on or after August 8, 2005 (other than leases issued in response to applications that were pending on that date for which no election is made under § 3200.8(b)(1)), and for leases issued before August 8, 2005, for which an election is made under § 3200.7(a)(2), the rental rate is as follows:

(1) If you obtained your lease through a competitive lease sale, then your annual rent is \$2 per acre for the first year, and \$3 per acre for the second through tenth year;

(2) If you obtained your lease noncompetitively, then your annual rent is \$1 per acre for the first 10 years; and

(3) After the tenth year, your annual rent will be \$5 per acre, regardless of whether you obtained your lease

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through a competitive lease sale or noncompetitively.

(c) For leases issued before August 8, 2005, for which no election is made under § 3200.7(a)(2), and for leases issued in response to applications pending on that date for which no election is made under § 3200.8(b)(1), the rental rate is the rate prescribed in the regulations in effect on August 8, 2005 (43 CFR 3211.10 (2004)).

(d) For leases in which the United States owns only a fractional interest in the geothermal resources, BLM will prorate the rents established in paragraphs (a), (b), and (c) of this section, based on the fractional interest owned by the United States. For example, if the United States owns 50 percent of the geothermal resources in a 640 acre lease, you pay rent based on 320 acres.

### **§ 3211.12 How and where do I pay my rent?**

(a) *First year.* Pay BLM the first year's rent in advance. You may use a personal check, cashier's check, or money order made payable to the Department of the Interior—Bureau of Land Management. You may also make payments by credit card or electronic funds transfer with our prior approval.

(b) *Subsequent years.* For all subsequent years, make your rental payments to MMS. See MMS regulations at 30 CFR part 218.

### **§ 3211.13 When is my annual rental payment due?**

Your rent is always due in advance. MMS must receive your annual rental payment by the anniversary date of the lease each year. See the MMS regulations at 30 CFR part 218, which explain when MMS considers a payment as received. If less than a full year remains on a lease, you must still pay a full year's rent by the anniversary date of the lease. For example, the rent on a 2,000-acre lease for the 11th year, would be \$10,000 (\$5 per acre), due prior to the 10th anniversary of the lease.

### **§ 3211.14 Will I always pay rent on my lease?**

(a) For leases issued on or after August 8, 2005 (other than leases issued in response to applications that were pending on that date for which no elec-

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tion is made under § 3200.8(b)(1)), and for leases issued before August 8, 2005, for which an election is made under § 3200.7(a)(2), you must always pay rental, whether you are in a unit or outside of a unit, whether your lease is in production or not, and whether royalties or direct use fees apply to your production.

(b) For leases issued before August 8, 2005, for which no election is made under § 3200.7(a)(2), and for leases issued in response to applications pending on that date for which no election is made under § 3200.8(b)(1), you must pay rent for all the lands in your lease until:

(1) Your lease achieves production in commercial quantities, at which time you pay royalties; or

(2) Lands in your lease are within the participating area of a unit agreement or cooperative plan, at which time you pay rent for lands outside the participating area and pay royalties for lands within the participating area.

### **§ 3211.15 How do I credit rent towards royalty?**

You may credit rental towards royalty under MMS regulations at 30 CFR 218.303.

### **§ 3211.16 Can I credit rent towards direct use fees?**

No. You may not credit rental towards direct use fees. See MMS regulations at 30 CFR 218.304.

### **§ 3211.17 What is the royalty rate on geothermal resources produced from or attributable to my lease that are used for commercial generation of electricity?**

(a) For leases issued on or after August 8, 2005 (other than leases issued in response to applications that were pending on that date for which the lessee does not make an election under § 3200.8(b)(1)), the royalty rate is the rate prescribed in this paragraph.

(1) If you or your affiliate sell(s) electricity generated by use of geothermal resources produced from or attributed to your lease, then:

(i) For the first 10 years of production, the royalty rate is 1.75 percent;

(ii) After the first 10 years of production, the royalty rate is 3.5 percent; and